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ARIZONA CORPORATION COMMISSION

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December 10, 2003

DOCKET CONTROL

Commissioner William Mundell
 Commissioner Jeff Hatch-Miller
 Commissioner Mike Gleason
 Commissioner Kris Mayes
 Arizona Corporation Commission
 1200 W. Washington
 Phoenix, Arizona 85007

Re: Wireless Slamming and Cramming
 Docket no. RT-00000J-99-0034

Dear Colleagues:

I was intrigued by the attached article from our press clippings. The use of the term "stealth inflation" to describe how a wireless company "manages to extract more money from you without raising their rates" is right on point.

The true stories contained in the article are consistent with my constituent calls and justify the very limited Commission oversight of wireless carriers proposed in our Rules.

I look forward to our efforts to protect Arizona ratepayers from "stealth inflation".

Very truly yours,

Marc Spitzer
 Chairman

cc: Docket Control

Enclosures:

Arizona Corporation Commission
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December 4, 2003

STATE OF THE ART

Checking Your Bill for a New Charge Called 'Oops'

By DAVID POGUE

EVERY few years, economists identify another mutant variation of inflation to keep them awake at night. In the 1980's, it was stagflation. Three years ago, it was deflation. And now, meet the economic specter of the new millennium: stealth inflation.

That's when phone companies and just about anybody else who sends you a bill manages to extract more money from you without actually raising their rates.

Phase 1 of this program was the proliferation of miscellaneous fees - for "regulatory assessment," "handling," "restocking," and so on. According to Business Week, newly concocted fees will generate \$100 million for hotels this year, \$2 billion for banks, \$11 billion for credit-card companies - and an average of 20 percent extra on every phone bill.

Recently I may have stumbled upon Phase 2.

Attracted by the superior coverage of Verizon's wireless network, I signed up for a new cellphone. The \$60 package included unlimited night and weekend calling and 800 anytime minutes.

A few days later, a welcome letter congratulated me on my new 700-minute plan. I called customer service. It was supposed to be 800 minutes, yes?

The phone representative explained that what I signed up for was the 700-minute plan, with a 100-minute bonus. The welcome letter didn't reflect the bonus, but I would see it on my monthly statements.

All right, no problem. All I'd lost was the 25 minutes on the phone with Verizon.

Yet when the first statement arrived, Verizon had charged me 25 cents for every minute over 700.

I called the 800 number again; the representative apologetically credited me the 100 minutes. Cost to me: another 25 minutes.

When the same error cropped up on the next month's statement, my wife mentioned that she had gone through precisely the same ritual with MCI long distance a few months earlier. In fact, after reviewing our records, we discovered at least seven cases in the last few years when a service company (including at least three phone companies) overbilled us and didn't correct the mistake until we turned ourselves into human pit bulls.

All right, mistakes happen. But over and over and over again?

Now, I'm not much on conspiracy theories. But in the weekly Circuits e-mail newsletter (nytimes.com/circuits) I floated a theory that all this might be part of a pattern of passive-aggressive robbery perpetrated on the premise that a certain percentage of customers won't notice, or won't bother to protest. Almost immediately, my copy of Microsoft Outlook turned into Microsoft Look Out. A tidal wave of responses poured in - over 1,200 in the first four days.

Because the comments were made by e-mail or as online postings, many of the correspondents did not respond to requests for elaboration or fuller identification. But the volume of the responses made it clear that I had struck a chord.

"My experience with cellphone companies, airlines, and Internet providers has been so overwhelmingly dominated by 'mistakes' that I can't believe that it amounts to anything less than an insidious new business model developed to prey upon busy lives," said Jeremy Cohen, a 25-year-old music student in Cambridge, Mass.

A posting on nytimes.com offered a similar lament: "They've cut to the bone to increase their bottom line. They train their front lines to blow people off, and give them no authority to make amends for problems. In previous eras, this was known as thievery. Now it's just the way things are done."

Not surprisingly, the companies in question deny that there's anything fishy going on. "We're not in business to part people from their money for a service that they don't get," said Mark Siegel, an AT&T Wireless spokesman. "Are there mistakes from time to time? Yes. But is it the conscious act of some cabal, a secret group of people sitting in a smoke-filled room (O.K., not in New York City)? No way."

On the other hand, would P.R. people even know about such a program? The people who would really know what's going on are the actual phone representatives - and I heard from them, too.

"I can't speak for all the cell companies," wrote a two-year customer-service veteran at one of the big carriers, "but the idea that we would intentionally overcharge customers is just plain wrong. Any time someone calls an 800 number, the company is charged, staff has to be paid and call centers have to be maintained. Where I work, we try to find ways to prevent customers from calling in. It would not make financial sense to do things that would purposely cause customers to call in."

That's a convincing argument; in fact, a Cingular spokeswoman told me that the industry-average cost per customer-service call is about \$7. Yet the whole idea behind stealth inflation is that customers don't call in, that the overbilling will go unnoticed, perhaps masked by the dizzying complexity of the modern monthly statement. Verizon Wireless, for example, doesn't even provide an itemized list of calls with your statement (unless you pay - what else? - an additional monthly fee).

Verizon's spokeswoman brought up another point, which I call the Theory of Statistical Inevitability. She pointed out that Verizon Wireless has 40 million customers. "Even though we strive to get it right the first time, all the time, there are, unfortunately, times when we fall short," she said.

But there is a hole in that defense, as one reader wrote: "If these were truly random errors, one would expect that some of them would work in our favor. I know of no one who ever got extra minutes, extra money or extra anything else."

And sure enough, in 1,200 tales of billing errors, only two people described ever being underbilled. (Of course, most customers who find errors made in their favor are smart enough to keep their mouths shut. Only Abe Lincoln would spend 25 minutes on the phone trying to give his cellphone company its \$1.75

back.)

In the end, the idea of a scheme to bilk millions of people by tiny amounts sounds preposterous, even silly. After all, wasn't that the villain's master plan in "Superman III"?

If you ask people on the receiving end of the complaints, you'll hear other theories to explain the explosion of customer accusations. Sprint executives, for example, assign part of the blame to the consumers themselves.

"Consumers, the press and others get caught up in the perception of overbilling," a spokeswoman said, but "if a customer changes her wireless calling plan and she doesn't read the terms and conditions of the contract, she might perceive a larger bill to be the result of overbilling, when in fact she never understood the terms of the contract."

Several carriers seconded Sprint's additional contention that "so many government taxes and federally mandated programs are being tacked on to phone bills in recent years. Consumers do benefit from these relatively recent government regulations, but at a cost that's not easily understood or explained."

Meanwhile, a number of call-

center employees suggested that what's really going on may have more to do with dim-witted corporate officers than evil ones.

"I see dozens of accounts every month where we have made a mistake," wrote an 800-number agent for retail-store credit cards. "But because the way our jobs are structured, we are basically encouraged to ignore the mistakes and make the customer go away."

"When it takes several minutes to unravel a mess but we are only given 156 seconds to handle the call, most customer service reps look for the quickest way to dispense with the call. Extra minutes are very costly to the C.S.R. With the millions of dollars we are getting from those who are not catching us, it more than makes up for the lost business."

In any case, there is some cause for optimism. In the cellphone arena, at least, the new era of number portability means that companies have an enhanced incentive to improve. For example, Verizon Wireless says it is adding a number of satisfaction-improvement programs, including customer-service software that has been redesigned to prevent errors - "using drop-down menus to choose items rather than relying on a rep's ability to remember some of our changing promotions/procedures."

A customer backlash is taking shape, too. Verizon agreed this year to a \$20 million settlement in a class-action lawsuit that accused it of having overcharged hundreds of thousands of California customers on their long-distance bills. (The plaintiff's law firm is now pursuing the matter on a nationwide basis.) Sprint, Qwest, SBC, AT&T and MCI have also recently settled class-action lawsuits related to fees and overbilling.

The more customers catch the errors and push back, the more it will cost the service companies to handle them - and the more likely such problems will be prevented.

At that point, Americans will encounter a form of inflation that will be worth celebrating: reverse stealth inflation.